

## **15.00.00.00 - AIRSPACE**

### **15.01.00.00 - GENERAL**

#### **15.01.01.00      Function and Policy**

The Airspace function is responsible for leasing and managing all property held for a transportation purpose that can safely accommodate a secondary use. A site identified as "airspace" is not only property within the right of way limits of an existing operating highway, but all Caltrans owned and operated facilities that are used to support the transportation system. This does not include property held for a "future" transportation purpose.

#### **15.01.01.01      Definition**

An airspace site is defined as any property within right of way limits of an existing highway, excluding conventional highways, that is capable of other development without undue interference with the operation and foreseeable future expansion of the transportation corridor for highway or other transportation uses without endangering the traveling public. Airspace may consist of:

- Surface rights under a viaduct structure.
- Space above the traveled lanes.
- Space within a loop of an interchange.
- Space between the main lanes and on or off ramps.
- Area in cut or fill slopes.

Airspace may also be defined as all Caltrans property that can safely accommodate a wireless telecommunications facility. Typical sites are:

- Space within a maintenance station, park and ride lot, roadside rest, office building, or other facility.
- Non-operating and operating right of way if access and utilities are from outside the travelway.

#### **15.01.01.02      Airspace Policy**

S&H Code 104.12, "Leasing of Airspace," authorizes the Department to lease airspace above and below highways to public and private entities in accordance with CTC prescribed procedures. Airspace leasing activities are conducted pursuant to policies established by the CTC Resolutions, guidelines recommended by the CTC's Airspace Advisory Committee (AAC), FHWA policies stated in 23 CFR 713, Subpart B, and procedures established in this chapter.

Established policies and procedures provide guidelines on leasing airspace sites to maximize use of property acquired for transportation purposes by allowing a dual use that must include one or more of the following:

- Increases the local tax base.
- Replaces some commercial services removed by a highway construction project.
- Promotes area employment.
- Provides an asset for the Department (e.g. park and ride lots and jointly developed roadside rest areas).
- Eliminates maintenance expenses of vacant sites.
- Creates an income stream that exceeds expenses to operate the program.
- Contributes to the State Highway Account.

See Reference File for the most current CTC Resolution.

#### **15.01.02.00      Responsibilities of Headquarters, Airspace Development Branch**

The Headquarters Airspace Development Branch (HQ A/S) is responsible for:

- Developing all policies and procedures governing all aspects of airspace leasing and management.

**NOTE:** District Permits handles all proposals to use property within the right of way of a conventional highway with the exception of Department owned property adjacent to a conventional highway (e.g., maintenance station).

- Delegating districts/regions to review and approve airspace uses and lease agreements.
- Preparing periodic reports on statewide and district/region income, expenses, inventory, production, and goals.
- Establishing standards to measure Airspace activity (i.e., income, expenses, production, and workload) in accordance with current and future contracts for district/region performance.
- Liaison with district/region Airspace Seniors, AAC, CTC, FHWA, other programs, and all external agencies.
- Coordinating budget requests for district/region PY allocation and workload projections.
- Preparing the annual Business Plan and the Annual Airspace Report and presenting them to AAC and CTC.
- Resolving technical issues through research and subsequent written guidance.
- Monitoring district/region activities to ensure the most effective and streamlined procedures are in place and working with districts/regions to make necessary changes to district/region activities or statewide procedures.
- Holding quality meetings, functional councils, training seminars, and workshops.
- Administering S&H Code Sections 72 (Route 480 Earthquake Damage), 104.11 (Joint Development), 104.12 (Leasing of Airspace), 104.17 and 104.18 (Homeless), and 146 (Mass Transit) and Government Code (GC) Section 14013 (Marler Johnson).

- Developing standardized lease agreements and language to protect the Department from potential liabilities and claims from the lessee, sublessees, and adjoining owners.

#### **15.01.02.01      Annual Reports**

HQ A/S prepares four annual Airspace reports.

- **Marketing Plan** - generates the workload in the R122 ("R/W Production Statistics") report. Used to allocate PYs for the next two fiscal years by MSA Codes. Long term leasing activities are by work unit and projected completion date. Data is requested in the spring of every year and is reported by June 30, the end of the State Fiscal year (SFY), to HQ A/S.
- **AB 142 Report** - statewide inventory, by district/region, that lists leased and vacant sites including use, internal uses, and potential income. Data is requested in the spring of every year and is reported at the end of the SFY.
- **Annual Report to the AAC, CTC, and Legislature** – districts/regions provide information on inventory, income, and leasing activity for the previous fiscal year with specifics on Marler Johnson leases, Park and Ride Joint Development, Park and Ride Demonstration Program, internal uses, building development, seismic retrofit, and other major programs. Per S&H 104.12, data is requested for the previous SFY in the fall of each year and reported after October 1.
- **Business Plan** - a statewide plan for the Airspace program that establishes next year's objectives and goals. This report must be presented to the AAC and the CTC each SFY.

Management or the Legislature may also require special reports or information.

See Reference File for the most current reports.

**15.01.02.02**      **Annual HQ Staff Assistance Visits (SAV)**

HQ A/S staff will visit the Senior Agent for Airspace (Senior) at least once a year to review current operations and ensure accurate instructions are in place to assist Region and District Airspace Units (Airspace) with the work products and goals. Some of the items HQ A/S and Airspace may discuss are the effectiveness of:

- Airspace efforts to maximize public and private multiple use of right of way.
- Written policies, procedures, and instructions.
- Annual marketing, workload, and budgetary plans used to track PY effort.
- HQ A/S assistance and training to improve district/region operations and prepare for the next budget cycle.

**15.01.03.00**      **Responsibilities of Region and District Airspace Development Units**

To manage an effective Airspace program, the Senior and staff will:

- Develop a positive marketing program to maximize revenue.
- Implement multiple use concepts during the project planning and design processes.
- Administer and manage all freeway leasehold and airspace areas.
- Identify potential airspace sites and maintain a current and accurate database in the inventory.
- Coordinate with the Environmental Branch to identify project environmental implications or determinations and to assist developers with requirements for environmental clearance and air quality studies or statements.
- Coordinate with district/region Maintenance and Landscape units to market the joint use of roadside rest areas and park and ride lots to provide better services to the traveling public while decreasing the Department's maintenance expenses on the sites.

- Cooperate with private industry to develop suitable sites.
- Protect airspace sites against adverse economic impacts, such as inappropriate utility encroachments and discriminatory down zoning.

**15.01.04.00**      **District/Region Airspace Review**

Airspace is responsible for conducting a district/region review of all proposals to lease an airspace site. A District Airspace Review Committee (DARC) consisting of representatives from Right of Way, Traffic Operations, Landscape Architect, Project Development, Maintenance, Environmental, Structures, Hydraulics, and the State Fire Marshal must approve proposed airspace uses. Additional programs may be included if the program is affected by the proposed use (e.g., the Park and Ride representative from Traffic Operations).

Prior to submitting the proposal to DARC, Airspace should review the proposal and develop a plan for leasing the site, including:

- Best method to lease the site (bid or directly negotiated).
- Adjacent property management and excess sites that could be joined to the site and leased together.
- History of prior leases (including term and use).

Although formal meetings are suggested, informal discussions and routing of the proposal will suffice if the proposal is not complex.

Airspace shall provide relevant information to DARC members, such as:

- Proposed use and term.
- Site improvements (proposed and existing) - paving, striping, curbing, lighting, etc.
- Access - ingress and egress.
- Utilities, including water.
- Major developments - buildings, storage tanks.

DARC representatives should be permanent members from each program who have committed to participate fully in the review. Responses should be returned in the established time frame (e.g., 15 days for conceptual and 45 days for preliminary and final). Close coordination with the proposed lessee is necessary to ensure documents are submitted on time to obtain all approvals prior to scheduled construction or occupancy date.

DARC is responsible for reviewing the proposal to ensure the use and improvements will not adversely affect highway safety nor interfere with operations. Any conflicts between the proposal and internal uses should be mitigated with the proposed lessee to the fullest extent possible.

Airspace should use discretion when forming a DARC review for a proposed use. Only those members that can provide valuable input on the impact to their program should be included in the

review. A legal, low-value, non-complex proposal with no improvements may require a less intensive review than a parking structure underneath a highway structure. Additionally, many of these types of proposals may not require extensive review at the conceptual phase. This can be done at the preliminary and final stages after the potential lessee provides more detailed information on the proposed lease.

DARC reviews are held at the conceptual, preliminary, and final phases to ensure previous concerns have been addressed and the proposal has not dramatically changed since conceptual approval.

The preliminary phase is at Airspace's discretion considering the proposal's complexity and the level of review that was performed at the conceptual phase.

See Section 15.06.13.00.

<b>DISTRICT/REGION AIRSPACE REVIEW PHASES</b>	
<b>Stage</b>	<b>Review</b>
Conceptual	<ol style="list-style-type: none"> <li>1. Does the proposal make sense?</li> <li>2. Any program objectives?</li> <li>3. Identify upgrades or modifications to site (e.g. slope or column protection).</li> <li>4. Other interest parties?</li> <li>5. Highest and best use.</li> <li>6. Advise proposed lessee of DARC comments.</li> <li>7. Does the lessee understand the requirement to pay a fair market lease rate?</li> </ol>
Preliminary	<ol style="list-style-type: none"> <li>1. Preliminary plan review: effect on operations. <ul style="list-style-type: none"> <li>• access, utilities.</li> <li>• highway structures.</li> <li>• lessee's improvements.</li> </ul> </li> <li>2. Potential risks and liabilities compared to benefits and revenue.</li> <li>3. Advise proposed lessee of DARC comments.</li> </ol>
Final	<ol style="list-style-type: none"> <li>1. All DARC comments addressed in final plans.</li> <li>2. Local and environmental approvals obtained.</li> <li>3. Construction and maintenance schedule.</li> <li>4. Final plans showing excavation and trenching.</li> <li>5. Advise proposed lessee and Permits Office of status.</li> </ol>